

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 HANNAH H. ROSE
Deputy Attorney General
4 State Bar No. 56276
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5515
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-316**

12 **NICOLE DENISE SEVIER**
1161 Camino Solano
13 Concord, CA 94521
Registered Nurse License No. 484082

ACCUSATION

14 Respondent.

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16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
20 Department of Consumer Affairs.

21 2. On or about August 31, 1992, the Board issued Registered Nurse License Number
22 484082 to Nicole Denise Sevier ("Respondent"). Respondent's registered nurse license was in
23 full force and effect at all times relevant to the charges brought herein and will expire on
24 November 30, 2011, unless renewed.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

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1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761, subdivision (a), states, in pertinent part, that the Board may take
8 disciplinary action against a certified or licensed nurse or deny an application for a certificate or
9 license for unprofessional conduct.

10 6. Code section 2762 states, in pertinent part:

11 In addition to other acts constituting unprofessional conduct within the
12 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

13 (a) Obtain or possess in violation of law, or prescribe, or except as
14 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
15 himself or herself, or furnish or administer to another, any controlled substance as
defined in Division 10 (commencing with Section 11000) of the Health and Safety
Code or any dangerous drug or dangerous device as defined in Section 4022.

16 (b) Use any controlled substance as defined in Division 10 (commencing
17 with Section 11000) of the Health and Safety Code, or any dangerous drug or
18 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
19 in a manner dangerous or injurious to himself or herself, any other person, or the
public or to the extent that such use impairs his or her ability to conduct with safety to
the public the practice authorized by his or her license . . .

20 7. Code section 4022 states:

21 "Dangerous drug" or "dangerous device" means any drug or device
22 unsafe for self-use in humans or animals, and includes the following:

23 (a) Any drug that bears the legend: "Caution: federal law prohibits
dispensing without prescription," "Rx only," or words of similar import.

24 (b) Any device that bears the statement: "Caution: federal law restricts
25 this device to sale by or on the order of a -----," "Rx only," or words of similar
import, the blank to be filled in with the designation of the practitioner licensed to use
26 or order use of the device.

27 (c) Any other drug or device that by federal or state law can be lawfully
dispensed only on prescription or furnished pursuant to Section 4006.

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1 8. Code section 4060 states, in pertinent part:

2 No person shall possess any controlled substance, except that furnished to
3 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
4 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
5 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
6 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to
7 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist
8 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
9 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 . . .

10 9. Health and Safety Code section 11170 states that no person shall prescribe,
11 administer, or furnish a controlled substance for himself.

12 10. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that
13 "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to
14 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
15 misrepresentation, or subterfuge . . ."

16 COST RECOVERY

17 11. Code section 125.3 provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licensee found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case.

21 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS AT ISSUE

22 12. "Vicodin" is a compound consisting of 5 mg hydrocodone bitartrate, also known as
23 dihydrocodeinone, and 500 mg acetaminophen per tablet, and is a Schedule III controlled
24 substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

25 13. "Soma," a brand of carisoprodol, is a dangerous drug within the meaning of Code
26 section 4022 in that it requires a prescription under federal law.

27 14. "Morphine" is a Schedule II controlled substance as designated by Health and Safety
28 Code section 11055, subdivision (b)(1)(M).

15 "Demerol", a brand of meperidine hydrochloride, a derivative of pethidine, is a
16 Schedule II controlled substance as designated by Health and Safety Code section 11055,
17 subdivision (c)(17).

1 16. "Dilaudid", a brand of hydromorphone, is a Schedule II controlled substance as
2 designated by Health and Safety Code section 11055, subdivision (b)(1)(K).

3 17. "Methamphetamine" is a Schedule II controlled substance as designated by Health
4 and Safety Code section 11055, subdivision (d)(2).

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Diversion, Possession, and Self-Administration of Controlled Substances)**

7 18. Respondent is subject to disciplinary action pursuant to Code section 2761,
8 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
9 subdivision (a), in that in and between November 2003 and August 2004, while on duty as a
10 registered nurse at Baywood Court Retirement Community ("Baywood") located in Castro
11 Valley, California, Respondent did the following:

12 **Diversion of Controlled Substances:**

13 a. Respondent obtained the controlled substances morphine, Demerol, and Dilaudid by
14 fraud, deceit, misrepresentation, or subterfuge, in violation of Health and Safety Code section
15 11173, subdivision (a), as follows: In or about November or December 2003, Respondent began
16 diverting Carpujects of morphine, Demerol, and Dilaudid from the medication carts at Baywood
17 for her personal use. Respondent would take the Carpujects to the bathroom, carefully peel back
18 the safety seal, and remove each Carpuject from its plastic container. Respondent removed the
19 medication from the Carpujects by sticking an empty syringe into the rubber stopper on the back
20 of the Carpujects and withdrawing the medication. Respondent would then use a second syringe
21 filled with saline solution to pierce the rubber stopper and refill the Carpujects. Respondent
22 would replace the Carpujects into their plastic tubes, smooth back the safety seals, and return the
23 adulterated Carpujects to the medication carts. Respondent would re-cap the syringe of narcotics
24 and put it in her locker for later use, or would "shoot up" the narcotics before returning to her
25 assigned duties. During a period of approximately two months, Respondent began taking the
26 larger size Carpujects (10 mg, 50 mg, and 75 mg Carpujects) because she wanted the "higher
27 strength drugs", and was diverting them each shift. Respondent continued diverting controlled
28 substances at Baywood until August 10, 2004.

1 **Possession of Controlled Substances:**

2 b. In and between November 2003 and August 2004, Respondent possessed unknown
3 quantities of the controlled substances morphine, Demerol, and Dilaudid, as set forth in
4 subparagraph (a) above, without valid prescriptions from a physician, dentist, podiatrist,
5 optometrist, veterinarian, or naturopathic doctor, in violation of Code section 4060.

6 **Self-Administration of Controlled Substances:**

7 c. In and between November 2003 and August 2004, Respondent self-administered
8 unknown quantities of morphine, Demerol, and Dilaudid without lawful authority therefor, as set
9 forth in subparagraph (a) above.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Use of Controlled Substances and Dangerous Drugs to an Extent**
12 **or in a Manner Dangerous or Injurious to Oneself and Others)**

13 19. Respondent is subject to disciplinary action pursuant to Code section 2761,
14 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
15 subdivision (b), in that in and between 2002 and January 2005, Respondent used the controlled
16 substances Vicodin, morphine, Demerol, Dilaudid, and methamphetamine and dangerous drug
17 Soma to an extent or in a manner dangerous or injurious to herself and others or to the extent that
18 such use impaired her ability to conduct her nursing duties safely, as follows:

19 a. In or about 2002, Respondent was prescribed Vicodin and Soma after injuring her
20 back at work. Respondent became dependent on the medications and began taking them more
21 often than prescribed. Respondent would run out of her Vicodin and Soma before she was
22 eligible for a refill and would suffer withdrawal symptoms when this happened.

23 b. In or about November or December 2003, while on duty as a registered nurse at
24 Baywood, Respondent began diverting morphine, Demerol, and Dilaudid for her personal use, as
25 set forth in subparagraph 18 (a) above. Respondent would use or "shoot up" the narcotics before
26 returning to her assigned duties. Respondent's addiction progressed to the point that she was
27 diverting controlled substances each shift.

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1 c. Two or three days prior to August 10, 2004, registered nurse T. N. observed that
2 Respondent was slurring her words, stumbling, and acting suspicious. On August 10, 2004, the
3 Director of Nursing at Baywood reported that 29 injectable narcotic syringes had been tampered
4 with. Later that day, it was discovered that 30 more narcotics appeared to be tampered with.
5 Respondent was scheduled to meet with the Director of Nursing on August 13, 2004, about
6 diverting the controlled substances. During the evening of August 12, 2004, Respondent took 30
7 Vicodin tablets and was taken to Eden Medical Center ("Eden") by her boyfriend, where she was
8 treated for a drug overdose. Respondent was transferred to the Intensive Care Unit for three days,
9 before transferring to the Psychiatric Unit at Eden. Upon discharge from Eden, Respondent
10 entered the Merritt-Peralta Institute for a 30 day live-in rehabilitation program. After
11 approximately two days, however, Respondent was transferred to the Dual Diagnosis Unit at Alta
12 Bates, Berkeley, because she was determined to be a suicide risk by Merritt-Peralta staff. Upon
13 completion of the 30 day program at Merritt-Peralta Institute, Respondent began living in a "clean
14 and sober" house in Hayward, California. In or about January 2005, Respondent was transferred
15 to a clean and sober house in Walnut Creek. Later that month, Respondent relapsed and began
16 using Vicodin, Soma, and methamphetamine. Respondent was detained by police for "psychotic
17 behavior" while at the Cache Creek Indian Casino in Brooks, California, and was later committed
18 to a psychiatric hospital in Sacramento, California.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 484082, issued to Nicole
23 Denise Sevier;

24 2. Ordering Nicole Denise Sevier to pay the Board of Registered Nursing the reasonable
25 costs of the investigation and enforcement of this case, pursuant to Business and Professions
26 Code section 125.3;

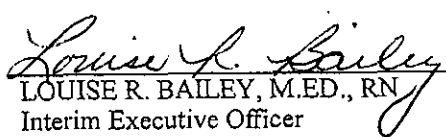
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3. Taking such other and further action as deemed necessary and proper.

DATED: 12/30/2009


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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